

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

COY PHELPS
Petitioner

-v-

DAVID WINN, et.al.
DAVID WINN, et.al
SARA RASMUSSEN, et.al.
HOWARD HAAS, et.al.
HOWARD HAAS, et.al.
DAVID REYNOSO, et.al.
ROBERT LANZA, et.al.
SHAWN CHANNEL, et.al.
Respondents

(Case No: 05-40003-GAO
(05-40042-GAO
(06-40011-GAO
(06-40082-GAO
(06-40090-GAO
(06-40143-GAO
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U.S. DISTRICT COURT
DISTRICT OF MASS

MOTION TO BIFURCATE PROCEEDINGS

) Date: 3/5/2007

The above petitioner moved this court to join the above cases for a consolidated proceeding. The U.S. Attorney also moved the court for a joinder of cases, claims, issues, and parties.

Petitioner now moves this court to bifurcate the proceedings so that the first phase will rest upon a question of law and the other phase will rest upon facts if, and only if, the petitioner does not prevail on the first phase.

"Did the U.S. Attorney General, the Director of the Federal Bureau of Prisons, and the Wardens of the various prisons in which the petitioner was confined misapply the law to cause the petitioner to be wrongfully incarcerated" is the first phase. That is: " Did the Federal Bureau of Prisons have lawful custody of the petitioner?"

If not, then everything that happen in the second phase was unlawful and the only remaining issue is the assessment of damages.

The bifurcation of the proceedings would streamline the proceedings to reduce the time needed for trial and would reduce the number of witnesses and the amount of evidence.

DATE: 3/05/2007



In Pro Se

COY PHELPS 78872-011
FMC-DEVENS
P.O. BOX 879
AYER, MASSACHUSETTS
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CERTIFICATE OF SERVICE

I, COY PHELPS, certify under penalty of perjury, pursuant to 28 USC 1746, that I placed a copy of this action into separate correctly addressed envelopes, affixed with proper and adequate first-class U.S. Postage, and deposited the pre-paid envelopes into the prison mail-box, or gave the pre-paid envelopes to a prison official, on the date indicated below, to be delivered to the following:

1. JENIFER C. BOAL, AUSA., U.S. Attorneys Office, 1 Courthouse
Way, Suite 9200, Boston, Massachusetts 02210

2.

3.

4.

5.

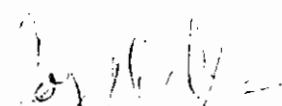
6.

7.

8.

9.

DATE: 3 / 5 / 2007


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In Pro Se

HOUSTON v LACK, 1988, 487 US 266 (papers deemed filed when deposited in a prison mail-box or given to a prison official.)
WILLIAMS v WADE, WD Wis 2005, 354 FS2d 894 (Rule applies to Service of Process also.)